

# Standards of Conduct Committee

## Lobbying Registers: Ireland and European Parliament

### Research Briefing

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This paper provides background briefing on how the registers of lobbyists work in Ireland and the European Parliament. The briefing was requested following the Committee's evidence session with the Registrar for the UK Register of Consultant Lobbyists (Alison Joy White) and Scottish Lobbying Registrar (Billy McLaren).

#### Ireland

In March 2015 the [Regulation of Lobbying Act 2015](#) (the Act) was signed into law by the President of Ireland. The Act provided for: the establishment of a register of persons who carry out lobbying activities; a code of conduct to carry out lobbying activities; and restrictions on involvement in lobbying by certain former designated public officials.

#### Administration of the register

The [Register of Lobbying](#) is administered and maintained by the [Standards in Public Office Commission](#), an independent body chaired by a former High Court judge. The role of the Commission is to: act as the Registrar for Lobbying; develop and oversee the web-based public register; deal with matters for decision; implement the code of conduct; provide guidance and promote understanding of the system; exercise powers to investigate; issue fixed payment notices for minor breaches; make provision for offences for significant breaches; and to provide Annual Reports to the Oireachtas.

#### Organisations required to register

Organisations are required to register if they are carrying out lobbying activities. This is determined by ascertaining if: the organisation is communicating either directly or indirectly with a "Designated Public Official" about "a relevant matter<sup>1</sup>" and the organisation is one of the following:

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<sup>1</sup> Other than a specifically exempted matter.

- A third party being paid to communicate on behalf of a client (where the client is an employer of more than 10 full time employees or is a representative body or an advocacy body which has at least one full-time employee);
- An employer with more than 10 employees where the communications are made on its behalf;
- A representative body with at least one employee communicating on behalf of its members and the communication is made by a paid employee or office holder of the body;
- An advocacy body with at least one employee that exists primarily to take up particular issues and a paid employee or office holder of the body is communicating on such issues; and
- Any person communicating about the development or zoning of land.

For the purposes of the Act, Designated Public Officials are listed as: Ministers and Ministers of State; TDs (Teachta Dála) and Senators; MEPs for constituencies; Members of Local Authorities; Special Advisers; Secretaries General and Assistant Secretaries in the Civil Service; and Chief Executive Officers and Directors of Services in Local Authorities

A “relevant matter” is one which relates to:

- The initiation, development or modification of any public policy or of any public programme;
- The preparation or amendment of any law (including secondary legislation such as statutory instruments and bye-laws); or
- The award of any grant, loan or other financial support, contract or other agreement, or of any licence or other authorisation involving public funds<sup>2</sup>.

There are a number of “excepted or exempted communications” which are not regarded as lobbying activities:

- Private affairs: Communications by or on behalf of an individual relating to his or her private affairs about any matter other than the development or zoning of any land apart from the individual’s principal private residence;
- Diplomatic relations: Communications by or on behalf of a foreign country or territory, the European Union, the United Nations or other international intergovernmental organisations;
- Factual information: Communications requesting factual information or providing factual information in response to a request for the information;

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<sup>2</sup> Other than the implementation of any such policy, programme, enactment or award or any matter of a technical nature only.

- Published submissions: Communications requested by a public service body and published by it;
- Trade union negotiations: Communications forming part of, or directly related to, negotiations on terms and conditions of employment undertaken by representatives of a trade union on behalf of its members;
- Safety and security: Communications the disclosure of which could pose a threat to the safety of any person or to the security of the State;
- Oireachtas committees: Communications which are made in proceedings of a committee of either House of the Oireachtas;
- Communications by Designated Public Officials or public servants: Communications by a designated public official in his or her capacity as such; communications by public servants (or those engaged on contract by a public service body) made in that capacity and relating to the functions of the public service body;
- Governance of Commercial State bodies: Communications by or on behalf of a commercial state body made to a Minister who holds shares in, or has statutory functions in relation to, the body, or to designated public officials serving in the Minister's department, and which are made in the ordinary course of the business of the body; and
- Policy working groups: Communications between members of a relevant body appointed by a Minister, or by a public service body, for the purpose of reviewing, assessing or analysing any issue of public policy with a view to reporting to the Minister or public service body on it.

## The Register

The lobbying register is a web-based public registry of information. There is no charge for organisations/individuals to register. At the time of writing there are 1620 organisations/individuals [registered](#). Registrants are required to provide the following information on the register:

- Organisation name;
- Business address and contact details;
- Main business activities;
- Name of the person with primary responsibility for lobbying; and
- Company Registration Office Number/Charitable Registration Number.

Registrants are required to make 'returns' to record lobbying activity. There are 3 returns periods per year with assigned deadlines (1 September–31 December: returns due 21 January/1 January–30 April: returns due 21 May/ 1 May–31 August: returns due 21 September). Each return must include information on who was lobbied; the subject matter of the lobbying and intended results; type and extend of activity; the name of any person in the

organisation who is or was a designated official and carried out lobbying activity; client information (if relevant).

### Contraventions and sanctions

Part 4 of the Act deals with contraventions and enforcement. There are a number of contraventions:

- Lobbying without registering;
- Failure to submit a return by deadline (including nil return);
- Providing inaccurate/misleading information;
- Failing to comply with an investigation; and
- Obstructing an investigation.

The consequences for non-compliance with the Act include fixed payment notices (for late returns), investigation of possible contraventions, prosecution, and fines and/or imprisonment.

Additionally, there are post-employment restrictions for some public officials.

## European Parliament and Commission

The [Transparency Register](#) was set up as a joint scheme by the European Parliament (EP) and the European Commission (EC) in 2011 through an [Interinstitutional Agreement \(IIA\)](#). The register applies to all interest groups engaging in activities carried out with the objective of influencing the law-making and policy implementation processes of the EU institutions. The scope of the register covers all activities (with a couple of exceptions<sup>3</sup>) carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and decision making processes of the EU institutions, irrespective of where they are undertaken and the channel or medium of communication used.

The Interinstitutional Agreement between the European Parliament and the European Commission sets out the rules and principles on which the Transparency Register is based. The first Agreement (signed in June 2011) was reviewed after two years. The revised Agreement was adopted in April 2014.

### The Register

The register is currently voluntary, but there are [proposals to make it mandatory](#). It is a publicly available, searchable resource, and there is no fee for registration. There are a

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<sup>3</sup> Activities not covered are outlined in points 9, 10, 11 and 12 of the Interinstitutional Agreement.

number of incentives that may offered by the European Parliament to encourage registrants to register:

- Further facilitation of access to its premises, its Members and their assistants, its officials and other staff;
- Authorisation to organise or co-host events on its premises;
- Facilitated transmission of information, including specific mailing lists;
- Participation as speakers in committee hearings; and
- Patronage by the European Parliament.

Incentives offered by the European Commission to registrants may include:

- Measures with regard to the transmission of information to registrants when launching public consultations;
- Measures with regard to expert groups and other advisory bodies;
- Specific mailing lists; and
- Patronage by the European Commission.

At the time of writing, there are 11,216 [registrants in the register](#). The breakdown of organisations is shown in Table 1 below.

Table 1: [Statistics for the Transparency Register \(Europa.eu\)](#)

Professional consultancies/law firms/self-employed consultants	1301
In-house lobbyists and trade/business/professional associations	5563
Non-governmental organisations	2932
Think tanks, research and academic institutions	838
Organisations representing churches and religious communities	48
Organisations representing local, regional and municipal authorities, other public or mixed entities etc.	534
Total	11216

## Administration of the register

The Joint Transparency Register Secretariat (JTRS) is made up of a team of officials from the European Parliament (EP) and the European Commission (EC). It operates under the coordination of the Head of the Transparency Unit in the European Commission Secretariat-General with the Council as an observer. The JTRS is in charge of the day-to-day management of the system; it offers help-desk services, issues and updates guidelines for registration, undertakes data quality checks, handles alerts and complaints received, coordinates IT development and maintenance, and carries out awareness-raising activities. The Secretariat issues an [Annual Report](#) on the Transparency Register, its content and the way in which it is developing.

## Registrant information

Registrants are required to provide a wide range of information:

- The name of the organisation or self-employed individual;
- The section of registration (type of organisation by category);
- Contact details;
- Details of the person with legal responsibility and person in charge of EU relations;
- The goals/remit of the organisation;
- Details of specific activities covered by the register (e.g. main EU initiatives, policies and legislative files followed by the organisation/relevant policy implementation, public relations and communication activities/participation in EU structures and platforms/high level groups (EC)/Consultative committees/expert groups (EC), Intergroups and industry forums (EP);
- The number of people involved in the activities listed in the previous bullet point;
- Details of persons accredited for access to European Parliament premises;
- Fields of interest;
- Membership and affiliation; and
- Financial data (including estimate of the annual costs related to activities covered by the register, and the most recent financial information about funding received from EU institutions).

By registering, an organisation has automatically signed the Transparency Register [Code of Conduct](#), which sets out the rules for all those who register and establishes the underlying principles for standards of behaviour in all relations with the EU institutions.

## Contraventions and sanctions

The Interinstitutional Agreement sets out a range of measures available to the JTRS in the event of non-compliance with the code of conduct. These are summarised in Table 2 below.

Table 2: [Measures available in the event of non-compliance with the code of conduct](#) (from Interinstitutional Agreement)

Type of non-compliance	Measure	Publication of measure in the register	Formal decision to withdraw access to European Parliament premises
Non-compliance, immediately corrected	Written notification acknowledging the facts and their correction.	No	No
Non-cooperation with JTRS	Removal from the register, de-activation of the authorisation for access to EP premises and loss of other incentives.	No	No
Inappropriate behaviour	Removal from the register, de-activation of the authorisation for access to EP premises and loss of other incentives.	No	No
Repeated and deliberate non-cooperation or repeated inappropriate behaviour and/or serious non-compliance	<p>a. Removal from the register for one year, and formal withdrawal of authorisation for access to EP premises</p> <p>b. Removal from the register for two years, and formal withdrawal of authorisation for access to EP premises</p>	Yes, by decision of the Secretaries General of the EP and EC.	Yes, by decision of College of Quaestors.